

Message Text

CONFIDENTIAL

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ACTION L-03

INFO OCT-01 ARA-16 ISO-00 JUSE-00 DEAE-00 SNM-02 SCA-01

SSO-00 DRC-01 RSC-01 /025 W
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O 072314Z NOV 73

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC IMMEDIATE NIACT 6474

C O N F I D E N T I A L SANTIAGO 5452

EO 11652: GDS

TAGS: PINT, SNAR, PFOR, CPRS, CI

SUBJ: GFT: FUGITIVES

REF: STATE 219658

1. EMBASSY HOPES DEPT CAN CONSIDER ASKING JUSTICE'S CRIMINAL DIVISION, GOVT REGULATIONS SECTION TO RECONSIDER SINCE WE SHARE VIEW EXPRESSED TO US LOCALLY THAT USG WILL LOSE FUGITIVES UNLESS CHILEAN COUNSEL IS RETAINED. WHILE GIVING FULL WEIGHT TO CONSIDERATIONS RAISED REFTEL, WE BELIEVE BASIS DECISION IS FUNCTION OF HOW GREATLY USG DESIRES TO BREAK OPERATIONS OF THESE OFFENDERS IN EXECUTION OF PRESIDENT'S POLICY ON INTERNATIONAL NARCOTICS TRAFFICKING. FOLLOWING ARE OUR COMMENTS AS REQUESTING REGARDING CORRESPONDING PARAS 2 THROUGH 5.

2. WE BELIEVE FACT THAT PRIVATE ATTORNEY HAS NEVER BEFORE BEEN HIRED IN LATIN AMERICA CANNOT BE DETERMINING IN LIGHT RECENT CHILEAN EXPERIENCE (SANTIAGO 5369). WE SEE LITTLE REASON TO SHARE MISGIVINGS ABOUT SUPERVISING THE ATTORNEY DEA SANTIAGO IS CONSIDERING IN THIS CASE. ADMITTING THAT WE WOULD NOT WISH DEMAND HOURLY ACCOUNTING BY CRIMINAL LAW AUTHORITY OF HIS STANDING AND CALIBER, WE CONFIDENT THAT HE WOULD NOT RPT NOT CONSIDER VIOLATING PROFESSIONAL ETHICS BY ATTEMPTING TO OFFER BRIBES OR OTHERWISE UNDERTAKE QUESTIONABLE APPROACH WHICH USG CANNOT BE ASSOCIATED.

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3. WE CONCUR IN DEPT'S OPINION THAT TREATY DOES NOT OBLIGE GOC TO PROVIDE A PROSECUTING ATTORNEY. INDEED, AS PREVIOUSLY REPORTED, FON MINISTRY LEGAL ADVISER HAS INFORMED US THERE IS NO OFFICER OF GOC WHO HAS THIS RESPONSIBILITY (SANTIAGO 5369).

4. PROVISIONS ON PROCEDURE CITED REFTEL ARE CORRECT SO FAR AS THEY GO, HOWEVER THERE BEING NO PROSECUTING ATTORNEY WHO FOLLOWS CASE STEP BY STEP AND TAKES NECESSARY ACTIONS TO COUNTER MANEUVERS OF DEFENSE COUNSEL, OUR CASE WOULD BE ESSENTIALLY AT MERCY OF LATTER WHO IN EFFECT WOULD LARGELY DETERMINE ITS COURSE. NEITHER WOULD LOCAL COUNSEL BE AVAILABLE TO US TO REVIEW DOCUMENTS BEFORE SUBMISSION TO FOREIGN MINISTRY, HOPEFULLY IN TIME TO TAKE ANY CORRECTIVE ACTION REQUIRED. WHILE NOT DOUBTING THAT PROSECUTING ATTORNEY MIGHT BE WILLING TO STATE USG'S POSITION ON A LEGAL QUESTION PRESENTED BY THE DEFENDANT, THERE WOULD BE NO ONE CONVERSANT WITH THAT POSITION ON HAND TO RECOMMEND SUCH A RESPONSE. BEYOND THAT, AN ATTORNEY QUALIFIED TO PRACTICE BEFORE SUPREME COURT, WHICH HAS SOLE JURISDICTION IN EXTRADITION, APPEARS TO US ESSENTIAL IN APPELLATE PHASE, AFTER PRESIDENT OF SUPREME COURT RENDERS DECISION AND DEFENDANTS (OR USG IF APPROPRIATE) APPEALS TO FULL COURT, AT WHICH POINT ORAL ARGUMENTATION IS NECESSARY. THE GOC'S PROSECUTING ATTORNEY, AN OFFICIAL WITH MANY DEMANDS ON HIS ATTENTION AND WITHOUT THE KEEN INTEREST OF A PRIVATE ATTORNEY, WOULD BE AT AN OBVIOUS DISADVANTAGE.

5. WE DO NOT NECESSARILY SHARE VIEW THAT PREPARATION FOR ONE CASE IS ESSENTIALLY PREPARATION FOR ALL OF THESE CASES, WHICH WILL BE CONSIDERED SEPARATELY AND IN LIGHT OF INDIVIDUAL CIRCUMSTANCES. WE WOULD BE WILLING TO DISCUSS QUESTION OF FEE FURTHER AND TRY TO OBTAIN FLAT FEE IF DESIRED WITHOUT SUCCESSFUL EXTRADITION FEATURE, BUT POSSIBILITY OF BRIBERY OF MEMBERS OF SUPREME COURT IN COUNTRY OF CHILE'S STANDARDS AS TO LAW IS SUFFICIENTLY REMOTE TO BE DISMISSED AS A CONSIDERATION.

6. WE WILL RESPOND FURTHER ON ABOVE POINTS IF NECESSARY AND WILL AT THAT TIME ADVISE WHETHER PROPOSED DELIVERY DATES FOR DOCUMENTS ARE SATISFACTORY. THIS IMMEDIATE RESPONSE IS BEING FILED IN LIGHT REQUEST PARA. 6 REFTEL TO FACILITATE CONSIDERATION
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OF A RECONSIDERATION REQUEST TO JUSTICE, WHICH WE DEEM URGENT.
THOMPSON

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Message Attributes

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